IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 638 of 2002

to

FIRST APPEALNo 644 of 2002

with

CIVIL APPLICATION Nos 2379 to 2385 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI
and
Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ONGC LTD.

Versus

SP.LAND ACQUISITION OFFICER

Appearance:

MR AJAY R MEHTA for Appellants

MS MANISHA LAVKUMAR, AGP for Respondent No.1

MR B.J. JADEJA, for Repondents No.2 and 3

CORAM : MR.JUSTICE N.G.NANDI
and
MR.JUSTICE J.R.VORA

Date of decision: 01/05/2002

COMMON ORAL JUDGEMENT (Per : MR.JUSTICE N.G.NANDI)

1. These Appeals under Section 54 of the Land Acquisition Act (hereinafter referred to as the "Act") read with Section 96 of the Civil Procedure Code, are directed against the common judgment and award passed by the Reference Court i.e. the learned Civil Judge (SD), Surat, in Land Reference Cases No. 517/87, 518/87, 520/87, 521/87, 547/87, 550/87 and 551/87, whereby the Reference Court awarded compensation at the rate of in all Rs. 17/- per sq. meter in respect of the lands in question covered the Notification under Section 4(1) of the Act.

2. The lands in question are situated in the village Bhatpore, Taluka Choryasi, District Surat. Notification under Section 4(1) of the Act came to be published on 5th November, 1982, declaration under Section 6(1) of the Act came to be published on 2nd April, 1983, Award under Section 11A of the Act came to be declared on 31st March, 1986. The Special Land Acquisition Officer awarded compensation at the rate of Rs. 2.75 per sq. meter. Being dissatisfied with the compensation awarded by the Land Acquisition Officer, the claimants requested for making a Reference for redetermination of the compensation under Section 18 of the Act, whereupon the Reference was made by the Special Land Acquisition Officer. The Reference Court considering the evidence on record, enhanced the compensation from Rs. 2.75 per sq. meter to in all Rs.17 per sq. meter, thereby awarded an additional amount of Rs. 14.25 per sq. meter.

3. Oil & Natural Gas Corporation Limited, Acquiring Body, being aggrieved with the compensation awarded by the Reference Court, has filed these Appeals under Section 54 of the Act after obtaining the sanction/leave for filing the Appeals.

4. Mr. Ajay R. Mehta, learned advocate for the appellant has relied on the decision rendered by the Division Bench of this Court in First Appeal Nos. 3562/2000 to 3575/2000. In the case before the Division Bench, the lands were of village Bhatpore, the

Notification under Section 4(1) was published on 29th October, 1982. The Reference Court enhanced the compensation and redetermined the market value of the lands at Rs.17/- per sq.meter. The High Court reduced the compensation awarded to in all Rs. 13.50 per sq. meter including the compensation awarded by the Spl. Land Acquisition Officer.

5. It is not disputed by Shri B.J. Jadeja, learned counsel for the respondents - claimants that the present case is squarely covered by the judgment rendered by the Division Bench of this Court in First Appeals No. 3562 to 3575/2000.

6. As far as the present appeals are concerned, the lands are situated at village Bhatpore, that is the same village, in respect of which the earlier Division Bench awarded compensation at the rate of in all Rs. 13.50 per sq. meter. Since the lands are of the same village, the compensation awarded by the Division Bench in the earlier matters, would govern the market value as far as the lands in question in these appeals are concerned and, therefore, the amount of compensation redetermined by the Reference Court would be liable to be reduced to in all Rs. 13.50 per sq. meter.

7. It is submitted by Mr. Jadeja, for the respondents - claimants that after the redetermination of the compensation by the Reference Court, interest on solatium would be payable to the claimants in view of the judgment rendered by the Supreme Court in the case of SUNDER vs. UNION OF INDIA, reported in (2001) 7 SCC 211.

8. Mr. Mehta, learned Advocate for the Appellant Acquiring Body could not dispute the proposition that the claimants would be entitled to the interest on solatium in view of the judgment in the case of Sunder vs. Union of India (supra).

9. In the result, Appeals are partly allowed. The compensation redetermined by the Reference Court at Rs. 17/- per sq.meter is hereby set aside and the compensation is redetermined at in all Rs. 13.50 per sq.meter inclusive of the compensation awarded at the rate of Rs. 2.75 per sq. meter by the learned Special Land Acquisition Officer. The claimants are thus entitled to the compensation at the rate of in all Rs. 13.50 per sq. meter with statutory interest on solatium together with all statutory benefits as awarded by the Reference Court.

10. Appeals are disposed of accordingly with no order as to costs.

11. In view of the above order passed in the Appeals, Civil Applications No. 2379/2002 to 2385/2002 do not survive and stand disposed of accordingly. Rule is discharged in each application. Interim relief granted earlier stands vacated.

(N.G. Nandi, J.)

(J.R. Vora, J.)

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